

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: Michael R. Lindsay and Lorraine J.  
Lindsay  
Debtors.

BANKRUPTCY CASE NUMBER  
10-27472/JKF

JPMorgan Chase Bank, National Association  
Movant,  
v.

CHAPTER 13

Hearing Date and Time: March 30, 2011, at  
9:30AM

Michael R. Lindsay and Lorraine J. Lindsay  
Debtors/Respondents.

Objections due by: March 20, 2011

Ronda J. Winnecour, Trustee  
Additional Respondent.

Docket #: \_\_\_\_\_

Related to Doc # \_\_\_\_\_

**MOTION OF JPMORGAN CHASE BANK, NATIONAL ASSOCIATION FOR RELIEF  
FROM THE AUTOMATIC STAY**

AND NOW, comes Movant, JPMorgan Chase Bank, National Association, by and  
through its undersigned counsel, Leslie J. Rase, Esquire, and respectfully represents:

1. Debtors named above filed a Petition under Chapter 13 of the Bankruptcy Code in the Western District of Pennsylvania under the above case number on October 21, 2010.
2. Movant is the holder of a secured claim against Debtors, secured only by a first mortgage lien on property located at 1029 Raven Drive, Pittsburgh, PA 15243 (the "Property") which is not Debtors' principal residence (the "Property").
3. The Debtors acquired the Property on July 18, 2007 for a purchase price of \$1.00 of which a mortgage was extended to Debtor, Michael Lindsay in the original amount of \$50,000.00.
4. A deed to the Property was properly signed, acknowledged, delivered and recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania on July 22, 2005 in Book number 12526, page 90, as Instrument Number 2005-24177. A true and correct copy of the Deed is marked as Exhibit "A", is attached hereto and made a part hereof.
5. On or about July 18, 2007, the Debtor, Michael Lindsay, borrowed Fifty Thousand Dollars (\$50,000.00) from Washington Mutual Bank, F.A. ("Washington Mutual") (the "Mortgage Loan") and, as evidence thereof,

executed and delivered to Washington Mutual, *inter alia*, the following documents:

- a. A mortgage from Michael Lindsay to Washington Mutual Bank, FA, dated July 18, 2007 (the "Mortgage"); and
- b. An Adjustable Rate Note, from Michael Lindsay to Washington Mutual Bank, FA, dated July 18, 2007 (the "Note"); and,
- c. A HUD 1 Uniform Settlement Statement, dated July 18, 2007, which documented the closing on the Mortgage Loan (the "Settlement Statement").

Copies of the Mortgage, Note and Settlement Statement are attached hereto, made a part hereof, incorporated herein and designated as Exhibits "B", "C" and "D", respectively.

6. The Mortgage encumbered the Property and was intended by Debtor(s) and Washington Mutual to constitute a first lien on the Property.
7. A closing on the Mortgage Loan was held on July 18, 2007 (the "Closing") at which time, *inter alia*,: (a) the proceeds of the Mortgage Loan were delivered to, and accepted by, Debtor(s); (b) the Mortgage was signed, sealed, notarized and delivered to Washington Mutual; (c) the Note was signed, sealed and delivered to Washington Mutual and (d) the Settlement Statement was signed by Debtor(s).
8. At the time of closing Washington Mutual disbursed the loan proceeds of Fifty Thousand Dollars to Debtor(s) as reflected on the Settlement Statement.
9. On September 16, 2008, Washington Mutual was closed by the Office of Thrift Supervision and the FDIC was named receiver. On that same date, JPMorgan purchased loans, including the Mortgage Loan, previously owned by Washington Mutual, from the FDIC, which sold and conveyed the Mortgage Loan, *inter alia* to JPMorgan.
10. Movant and Debtor(s) intended to have the Mortgage recorded and that it should constitute a first lien on the Property.
11. On April 13, 2010, Washington Mutual Bank, F.A. filed a Praecipe for Writ of Summons in the Court of Common Pleas of Allegheny County, Pennsylvania and requesting that the Writ be indexed as a *lis pendens* against the Property. The Praecipe was filed at docket number GD 10-7597. The purpose of the action is to impress a mortgage upon the Property. A true and correct copy of the Praecipe is marked Exhibit "E", is attached hereto and made a part hereof.
12. On July 23, 2010, an Order was granted naming Movant JPMorgan as the Plaintiff in the litigation at GD 10-7597.

13. On August 24, 2010, Movant filed a Complaint for Quiet Title in the above litigation. A true and correct copy of the Complaint is attached hereto, incorporated herein by reference and marked as Exhibit "F".
14. No other person or entity, other than those named as parties hereto, has any interest in the Property and no intervening liens or judgments have been filed of record prior to the indexing of the litigation as a lis pendens on April 13, 2010.
15. The Writ of Summons in action GD 10-007597 was serve on Debtor Michael Lindsay on August 4, 2010 by the Sheriff of Allegheny County. A true and correct copy of the state court docket is attached as Exhibit "G" incorporated herein by reference and made a part hereof.
16. As of the date that this bankruptcy proceeding was commenced, the lis pendens entered in the Court of Common Pleas of Allegheny County, Pennsylvania at docket number GD 10-7597 remains of record, unimpaired and attaches to the Property.
17. Movant brings this Motion so as to allow Movant to continue the action pending in Allegheny County, Pennsylvania at docket number GD 10-7597 and to reduce the action there initiated to a final determination.
18. Movant understands and agrees that any determination entered in the Court of Common Pleas of Allegheny County would then be enforced by this Court in this bankruptcy proceeding.

WHEREFORE, it is respectfully requested that the automatic stay be terminated so as to allow Movant to continue and proceed to a final determination on the matters asserted in the action pending in the Court of Common Pleas of Allegheny County at Docket No. GD 07-22601.

Respectfully submitted,

Dated: March 3, 2011

BY: /s/ Leslie J. Rase, Esquire  
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S&D File #:09-036812